Previous references.

1914

(Legislation)

File No. 5 - 14

Serial Nos. 1

Later references.

Legs 14 of 14 Sl 1 B.

Preserve Apr 1914

(12)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1

Part B. for October 1914

SUBJECT.

Amendment of sec: 11 of the Mysore civil Courts Regn, 1883 (R.A. 7-13)

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1. No J 1066-73 & 22/10/14 to the D.C. Mysore for communicating to the R.A. member concerned and D.C.s of Dts. Informs that Govt consider that no change in the law is necessary.

S. Vasudeva Iyengar 9/11/14

G.R.S. 11] 1914-15

GENERAL AND REVENUE SECRETARIAT.

(Legis)

NOTES.

File No. 52/14

FILE HEADING.

Amendment of sec: 11 of the Mysore Civil Courts Regulation, 1883

From

No.	Dated	Received

Diary No.	Enclos.	Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

GPB—35,000—15-6-12

Legis 5-14

SUBJECT No. 7.

Amendment of Section II of the Mysore Civil Courts Regulation.

Mr. H. Narasinga Rao, Bar Association, Mysore.

Summary of discussion.—At present, the jurisdiction of Munsiffs extends up to Rs. 2,500 in all cases except where the subject matter is land paying revenue to Government, in which case five times the assessment determines the jurisdiction of the Civil Courts. This is an anamolous procedure. For, in cases of suits for the recovery of land, the Munsiff has jurisdiction to try the suit provided five times the annual assessment of the land does not exceed Rs. 2,500 even though the market value of the land be Rs. 50,000. But in suits for the recovery of a house or garden, money or other movable property, the Munsiff cannot try the suit, if the market value of the subject matter exceeds Rs. 2,500. Section II of the Civil Courts Regulation may therefore be amended so as to make the market value of the land as determining the jurisdiction.

3. Mr. H. Narasinga Rao pointed out that while in the case of houses, it is their market value that is taken into consideration, the assessment is taken as the criterion in the case of lands. He agreed that his suggestion, if adopted, would lead to more court fees being paid by parties in land suits but argued that there should be a separate criterion for purposes of jurisdiction as distinguished from court fees.

4. *Reply of Government.*—Will be considered.

2. Extract from the Secty Notes:-

The present rule is much more simple and less expensive to the parties

[Provision in Madras is similar, but Suits Valuation Act can replace — vide sec: 14 of the civil courts Act]

p.R.A.7

G. R. S. 12]

General and Revenue Secretariat

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Flags Z, Y
X . W

5. Submitted with copies of the civil Courts Regn, Court-Fees Regn, Madras Civil Courts Act and the Suits Valuation Act.

(48)
29/3/16 WL.

6) The following points are submitted for consideration

1. There is an anomaly in the present system as pointed out by the mover upon subject in the RA

2. If the the Civil Court Regulation alone is amended, there will be an anomaly in the Court Fee Reg[n]. The Court fee in suits for the recovery of the house, garden, money or other moveable property is the ad valorem fee. To avoid this result, the court fee Regulation also has to be amended. Therein with regard to the land, (paying assessment) there will be one set of principles, as regards the other properties, there will be another principle operating.

3. The parties will be put to more heavy

NOTE—Contn. sheet.

GPB—60,000—7-11-13

G. R. S. 12]

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	~~Courts~~, ~~other~~ as regards lawyers fees within court cost, and to the general cost will increase.
	4. The Mofussil lawyers will suffer in their practice as Head Quarter lawyers (in Bangalore, Mysore, Shimoga) will be benefited.
	5. Even in British India, in Civil Courts Regulations exactly like ours, and the said notification in Madras is the same as in Mysore. (Vide S. 14 of the Madras Civil Courts Act).
	6. Under 53 section this Valuation Act, the Local Govt may, with the previous sanction of the Govt of India make rules for determining the value of land for purposes of jurisdiction in suits mentioned in the Court Fees Act section 7 para (v) (vi) & (x) (d).
	7) But it is very significant that no rules have been framed by any Local Govt, except in Punjab, Eastern Punjab, the rules framed do not make the market value as the criterion for jurisdiction in all cases, but ~~had~~ Certain

NOTE—Contn. sheet.

GPB—10,000—13-6-14

G. R. S. 12]

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artificial rule, based apparently on certain local conditions, are framed.

8) In this circumstance, it is a point for consideration whether the Judges of the Chief Court may be consulted as regards the modification of law, if any is required, and also as regards the details which they would like suggested.

Submitted
18/8/14

Submitted

Just. Councillor)

9) The opinion may be called for as suggested. It may also be asked whether ~~if valuation~~ it is ~~desirable~~ just or desirable that the value for Court fees should be less than that for jurisdiction.

16/8/14

Hon'ble
18/8

U.O. No. J 10-14.
dated 19-8-14.

10) Forwarded unofficially to the Registrar, Chief Court, for favour of opinion of the Judges of the Chief Court.

19/8/14

B.O
Secretary
for Hon'ble Secy.
18/8/14

NOTE—Contn. sheet.

GPB—10,000—13-6-14

O P I N I O N.

The Chief Judge.

11) This is by no means an urgently required reform. I agree with the District Judge of Bangalore that one of its effects would be to prolong litigation in many land suits, and litigation is sufficiently dragged out as it is, whether or not, the District Judge of Mysore is right in his view that the number of suits over -- Rs.2500/- in value would largely increase can I think only be determined by an enquiry, but it seems likely that there would be a noteworthy increase, and that -- might involve the establishment of more Sub Courts, or the raising of Munsiffs' pecuniary jurisdiction. The only gain that follows from the acceptance of the proposal is to keep the pecuniary jurisdiction within the limit prescribed for it, and as the District Judge of Bangalore points out, if it is feared that Munsiffs frequently have to dispose of suits of higher value - than ought to be entrusted to them, a simple remedy would be to increase the multiple of the assessment, taken as the basis of the calculation. To that there can be no objection if the Government is prepared to face a possible increase of expenditure on Courts. The ~~explanation~~ expenditure might be met by the increase in Court Fees or might not, but litigants in land suits - can hardly be expected to like the change proposed if it is accompanied by a corresponding change in the --- amount of institution fees.

8

12) I confess my inability to see why the Government -- should retain one method of calculation for institution fee and another for jurisdiction. That may have to be done when no money valuation can actually be fixed on the claim, but is unnecessary in the sort of suit which would be affected by the present proposals. As it is the Plaintiff in a suit for land may get off cheaply, but there is no - more reason why the Government should allow him to do so in a suit for land, than in a suit for a house or a garden.

13) It would in my opinion be unwise to accede to the -- suggestion without a detailed enquiry as to its probable effects, and in any case I am not aware that any change - has been shown to be necessary.

Mr. Justice K.S.Chandrasekhara Aiyar.

14) I think both jurisdiction and Court fee should be -- determined by the same method of calculation. The method, again, should be a simple one not entailing any elaborate enquiry. In this respect the existing rules as regards -- land can hardly be improved upon; but in order to approach more nearly the real market value, the multiple of the assessment taken as the basis of calculation may, as suggested by the Chief Judge, be suitably increased. This would no doubt, on the one hand, necessitate an increase in the number of Sub Judges' and District Judges' Courts, and on the -- other, entail payment of higher Court Fees by litigants. -- But the former result may be obviated by simultaneously -- increasing the pecuniary Jurisdiction of Munsiffs to a -- suitable figure; and the latter result by a diminution in the rate of Court fee payable. This, however, is a large

question;

9

question; and I fully concur in the Chief Judge's view that it can only be satisfactorily settled after a detailed ---- enquiry.

Mr. Justice T. Paramasiva Iyer.

15/ I agree that valuation for purposes of jurisdiction and levy of Court Fees should be the same. At the same time that the Court Fees Act should be amended and lands (whether wet or garden) irrigated by channels drawn from perennial rivers or tanks fed by such channels should be assessed to the Court Fees Revenue on their market value and the proposal in the Dasara Representative Assembly is no doubt -- the outcome of the honest feeling that a suit for ten acres of wet land under the Chickdevaraya Sagar Channel worth --- 10,000 rupees should not be tried by a comparitively low — paid Munsiff as though they were worth only 100 rupees. Such lands form a class entirely distinct from other lands dry or wet which depend largely on the annual local rainfall and the market value of ~~each~~ such lands is easily ascertained.

Copy. Venkatasubba Rao
1/10/14. A. Seshagiri Rao

DRA 7 (40)

G. R. S. 12]

General and Revenue Secretariat. | Legis File No. 5 of 1914-15

Serial No. 17)

Subd.

(48) 18) In accordance with His Majesty's 3/10/14 pleasure, the Chief Court, a draft may perhaps be issued that Govt do not consider any change necessary at present advised.

EB 12/10

Legis 12/10

19) Draft put up.

AB54. 14/10/14) NK

20. The Chief Judge & Mr Chandra Sekhara Iyer consider that detailed enquiry is necessary before any change is proposed and that no good can have been made out for a change at present. Mr Paramasiva Iyer has not expressed any opinion on this point but does not dispute this. They all admit that there is an anomaly in the present system of valuation. In the absence of detailed information, it is perhaps advisable not to alter the present law. In this, it may be pointed out, that even in British India, the law is not different from ours, in spite of the Land Valuation Act.

EB 15/10

21. The draft is submitted for approval of this Govt.

Second Member)

22. Draft approved by Second Member.

16.10.14.

NOTE—Contn. sheet.

GPB—03,000—15-9-14

23. Issued EB 17/10

G. R. S. 12]

General and Revenue Secretariat.

Legis File No. 5 of 1914-15

Serial No.	
1	No J 1066-73 & 22/10/14
	To the D.C. Mysore for communication to the R.A. member concerned.
	To the D.C.s of Dhs.
	Informs that Govt consider that no change in the law is necessary.

NOTE—Contn. sheet.

GPB—03,000—15-9-14

Parsis order on subject no 7 of 1913

G.R.S. 28]

Legis File No. 5-14
Serial No. 1

Diary No. of letter replied to

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.
( )

, *the* 190

Date of issue 22/10/07

Signed by M. G. Srinivasa Ayya

READ—

Subject no 7 of the Progs. of the Representative Assembly, 1913, regarding the amendment of sec 11 of the Mysore Civil Courts Regn, 1884, so as to make, in suits where the subject matter is land paying revenue to Govt., the market value of the land, to determine the jurisdiction of the Court in which the suit is to be instituted. The Suit-

ORDER THEREON.—No.

Order thereon. J 1066-73.

~~In accordance with the views of the majority of~~ the Judges of the Chief Court who were consulted in the matter,

~~Agreeing with the views of the majority of them~~ Govt consider that no change over in

SUBJECT.

GPB—6,000—13-5-08

in the law is necessary at present-

2

Es
15/10
for Offg Secy

16/10

To the D.C. Mysore for communi-
cating to the R.A. Member who
mooted the subject.

The other D.Cs. of Es

Copy to the Basava Section -

Dec 18 13/10/14

1/11,